

## Message Text

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INFO OCT-01 ARA-16 ISO-00 CIAE-00 COME-00 DODE-00 EB-11

FMC-04 INR-10 NSAE-00 RSC-01 CG-00 COA-02 DLOS-06

PM-07 NSC-10 SPC-03 SS-20 TRSE-00 OMB-01 CPR-02 EUR-25

DRC-01 /123 W

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P 231539Z JAN 74

FM AMEMBASSY NASSAU

TO SECSTATE WASHDC PRIORITY 5152

C O N F I D E N T I A L SECTION 1 OF 2 NASSAU 139

E. O. 11652: GDS

TAGS: MARR BF US

SUBJ: FACILITIES NEGOTIATIONS: "NOTIFICATION" VICE "PERMISSION"  
IN CARRY-OVER AGREEMENT

REF: NASSAU 128

1. THE FOLLOWING IS THE EMBASSY'S ANALYSIS OF THE GCOB'S NOTE (REFTEL) AND INCLUDES OUR COMMENTS ON THAT NOTE FROM OUR VANTAGE POINT BASED ON INFORMATION AVAILABLE TO US.
2. PRIOR TO JULY 20, 1973, THE PROCEDURE FOLLOWED BY THE CONGEN WAS, AS GCOB NOTE STATES, FOR THE CONGEN TO REQUEST PERMISSION OF US PUBLIC VESSELS TO VISIT BAHAMIAN PORTS. THIS PROCEDURE WAS USED EVEN THOUGH THE US HAD THE AUTHORITY THROUGH AN EXISTING RECIPROCAL CLEARANCE AGREEMENT WITH THE UK TO SIMPLY NOTIFY THE THEN BAHAMIAN GOVERNMENT OF THE PLANNED SHIP VISITS.
3. THE EMBASSY CANNOT DETERMINE FROM RECORDS AVAILABLE TO IT ON WHAT BASIS THE US GOVERNMENT DECIDED THAT THIS PROCEDURE, I.E. NOTIFICATION IN PRINCIPLE, REQUESTING PERMISSION IN PRACTICE, WOULD NOT CONTINUE TO APPLY AS ONE OF THE TERMS OF THE CARRY-OVER AGREEMENT. WE DO UNDERSTAND, HOWEVER,  
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THAT IT WAS THE BAHAMIAN SIDE WHICH INSERTED THE LANGUAGE

"APPROPRIATE NOTIFICATION". EMBASSY IS NOT AWARE OF ANY RECORD OF BAHAMIAN INTENTION IN PROPOSING THAT LANGUAGE, BUT IT APPEARS IT CAME FROM THE US DRAFT OPERATING RIGHTS AGREEMENT THEN ON THE TABLE.

4. SINCE JULY 20, 1973, USING THE LANGUAGE CHOSEN BY THE BAHAMIANS, EMBASSY PRACTICE HAS BEEN TO NOTIFY THE MINISTRY OF VISITS OF US NAVAL VESSELS TO BAHAMIAN PORTS. AFTER THE THIRD OR FOURTH SUCH "NOTIFICATION" THE EMBASSY WAS APPROACHED INFORMALLY BY THE BAHAMIANS WITH AN INQUIRY AS TO THE CHANGE IN WORDING FROM REQUESTING PERMISSION TO GIVING NOTIFICATION. THE EMBASSY RESPONDED THAT THE USE OF THE WORD "NOTIFICATION" WAS PROPER SINCE IT APPEARED IN THE CARRY-OVER AGREEMENT. IT WAS CLEAR IN THIS EXCHANGE WITH THE BAHAMIANS THAT THEY EXPECTED THAT THE POST-INDEPENDENCE PRACTICE WOULD CONFORM WITH THE PRE-INDEPENDENCE PRACTICE, AND THAT THE US WOULD CONTINUE TO ASK PERMISSION. INDEED, IT SEEMED TO US THEY EXPECTED THAT THE WORD "NOTIFICATION" IN THE CARRY-OVER AGREEMENT WOULD RESULT IN THE WORDS "REQUESTS PERMISSION" IN OUR DIPLOMATIC NOTES, AS THE ARRANGEMENT WITH THE BRITISH HAD PRIOR TO INDEPENDENCE.

5. FOLLOWING THE INFORMAL BAHAMIAN INQUIRY, AN AD HOC ARRANGEMENT DEVELOPED WHICH TO OUR VIEW SEEMED SATISFACTORY FOR THE INTERIM, IN WHICH THE EMBASSY CONTINUED TO NOTIFY THE BAHAMIANS OF A PORT VISIT AND THE BAHAMIANS ACKNOWLEDGED WHAT THEY DESCRIBED AS A REQUEST FOR PERMISSION TO MAKE THE VISIT AND GRANTED THE PERMISSION. (IN NO CASE SINCE INDEPENDENCE HAS THERE BEEN A SITUATION IN WHICH THE LACK OF TIME HAS RAISED THE QUESTION OF WHAT THE US WOULD DO IF NOTIFICATION HAD BEEN GIVEN BUT NO RESPONSE RECEIVED FROM THE GCOB BEFORE THE ARRIVAL IN PORT OF THE PARTICULAR US NAVAL VESSEL.) GIVEN THIS BACKGROUND AND WHAT WE KNEW OF BAHAMIAN CONCERNS, INCLUDING POLITICAL SENSITIVITIES, THE EMBASSY HAS NEVER FORMALLY QUESTIONED THE PROPRIETY OF THIS AD HOC ARRANGEMENT, MUCH LESS REJECTED ANY OF THE BAHAMIAN NOTES "GRANTING PERMISSION".

OHM THE ONLY OTHER TIME THIS QUESTION WAS RAISED PRIOR TO RECEIVING NOTE IN REFTEL WAS IN UK HIGH COMMISSIONER'S DISCONFIDENTIAL

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CUSSION WITH GCOB OFFICIALS ON DECEMBER 19 (NASSAU 1968, 12-20-73).

7. COMMENT: THE EMBASSY KNOWS OF NO PARTICULAR INCIDENT WHICH MAY HAVE GIVEN RISE TO THE GCOB DECISION TO RAISE THIS QUESTION NOW. WE THINK THAT THIS NOTE, TOGETHER WITH THE CURRENT EXCHANGE WE ARE HAVING ON A TARGET DATE FOR COMPLETION OF NEGOTIATIONS, IS INDICATIVE OF BAHAMIAN PREPA-

RATIONS FOR THE FINAL PHASE OF THE NEGOTIATIONS ON A\*DEFINITIVE AGREEMENT. WE THINK IT ALSO DEMONSTRATES AN UNFORTUNATE SENSE OF TIMING GIVEN WHAT THEY KNOW OF THE PROBLEMS WE ARE HAVING WITH THEIR NOTE ON THE TARGET DATE.

8. EMBASSY BELIEVES THAT GCOB REFERENCE TO "STEADFAST" VISIT, WHILE NOT WHOLLY UNRELATED TO BODY OF ITS NOTE, IS NOT ON POINT. "STEADFAST" VISITED CAY SAL AREA IN AUGUST 1973 AND LANDED A BEACH PARTY IN UNINHABITED AREA AFTER EMBASSY NOTIFIED GCOB IN ACCORDANCE WITH CARRY-OVER AGREEMENT. POINT THAT GCOB SEEMS TO BE MAKING NOW IS THAT SINCE NO VISIT TO A BAHAMIAN "PORT" WAS INVOLVED, NOTIFICATION UNDER THE CARRY-OVER AGREEMENT (HOWEVER DEFINED) WAS NOT THE PROPER PROCEDURE TO HAVE USED. EMBASSY AGREES, BUT DOES NOT THINK THAT POINT HAS ANYTHING TO DO WITH HOW SUCH NOTIFICATION SHOULD BE HANDLED WHEN IT IS APPLICABLE.  
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TO SECSTATE WASHDC PRIORITY 5153

C O N F I D E N T I A L SECTION 2 OF 2 NASSAU 139

9. THE EMBASSY BELIEVES THAT THE BAHAMIANS NOW SEE THAT NOTIFICATION CAN PRODUCE A DIFFERENT SET OF PROCEDURES THAN THOSE THEY WERE ACCUSTOMED TO WHEN WE USED THE SAME WORD WITH THE BRITISH BEFORE INDEPENDENCE. TAKING THE NOTE AT FACE VALUE, IT RECORDS A GCOB VIEW THAT SOMEHOW THE STATUS QUO ANTE WAS ALTERED THROUGH A NEW US INTERPRETATION OF AN OLD WORD. IT MAKES CLEAR THAT IT WAS NOT THE INTENT OF

THE GCOB TO ALTER PROCEDURES IN THE CONTEXT OF THE CARRY-OVER AGREEMENT, NOT IS IT THE GCOB'S INTENTION TO ALTER THEM IN THE NEGOTIATIONS FOR A DEFINITIVE AGREEMENT. FUNDAMENTAL TO OUR RESPONSE IS WHETHER THE US BELIEVES IT ACHIEVED SOMETHING DIFFERENT (AND BETTER) IN THE NEGOTIATIONS FOR THE CARRY-OVER AGREEMENT, AND THAT, IN FACT, THE STATUS QUO WAS ALTERED NOT BY OUR PROCEDURES BUT BY THE BAHAMIANS' CHOICE OF A WORD. IF THIS IS THE US VIEW, THEN THE NEXT QUESTION IS WHETHER WE INSIST UPON IT NOW, OR LEAVE IT FOR THE NEGOTIATIONS ON THE DEFINITIVE AGREEMENT, WHERE IT SHOULD ARISE QUICKLY SINCE THE SAME LANGUAGE IS IN OUR DRAFT OPERATING RIGHTS AGREEMENT.

10. IN CONSIDERING OUR RESPONSE, DEPARTMENT SHOULD BE AWARE THAT UK HIGH COMMISSION HAS NOT RECEIVED A SIMILAR NOTE AND THAT ACTING UK HIGH COMMISSIONER REPORTS THAT UK, AS MATTER OF PRACTICE HERE, NOTIFIES GCOB OF UK SHIP VISITS TO EXISTING CONFIDENTIAL

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INSTALLATIONS, BUT REQUESTS PERMISSION FOR ALL OTHERS AND HAS BEEN REMINDED BY GCOB OF THE NEED FOR REQUESTING PERMISSION IN THE LATTER CASE.

11. EMBASSY WOULD APPRECIATE BEING ADVISED OF INTERPRETATION U.S. GIVES TO PARAGRAPH CITED IN BAHAMIAN NOTE BEFORE MAKING ITS RECOMMENDATIONS FOR REPLY, IF ANY, IN FACT, IS NEEDED OR CONSIDERED DESIRABLE AT THIS JUNCTURE.  
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**Disposition Authority:** golinofr  
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